Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 33692.01.0023	
I hereby certify that this correspondence is being transmitted to the USPTO via electronic transmission on: on May 19, 2009 Signature /Christine A. Wright/ Typed or printed name Christine A. Wright	Application Number 10/034,794	Filed December 28, 2001
	First Named Inventor Senaka Balasuriya	
	Art Unit 2457	Examiner Yves Dalencourt

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
          Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record. 34,414
Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

/Christopher J. Reckamp/
_____
                    Signature
Christopher J. Reckamp
_____
            Typed or printed name
312-609-7599
_____
            Telephone number
May 19, 2009
_____
                    Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Senaka Balasuriya   Examiner: Yves Dalencourt
Serial No. 10/034,794   Art Group: 2457
Filing Date: December 28, 2001   Docket No.: 33692.01.0023
Confirmation No.: 1315
Title: **MULTI-MODAL COMMUNICATION USING A SESSION SPECIFIC**
       PROXY SERVER

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicant respectfully submits that the Examiner's rejections include clear errors because the references do not teach what the Examiner alleges and/or the Examiner has not identified corresponding structure to Applicant's claims.

Claims 1-3, 6, 19-21 and 26-30 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Boloker et al. In the Final Action, the Examiner set forth a new ground of rejection in view of the Boloker reference based on Applicant's previous remarks pointing out that Boloker did not teach the claimed subject matter. In the latest office action however, the Examiner cites to portions of the reference that do not teach what is alleged and the final action does not identify which structure in the reference corresponds to the claimed structure. In the previous office action, the Examiner made an attempt to identify specific structure but Applicant pointed out why the structure did not read on the claims and as such, the Examiner withdrew those portions of the Boloker reference previously cited.

For example, in the non-final office action, the Examiner alleged that controller 363 shown in FIG. 28 of Boloker equated to the claimed controller of claim 1. However, Applicant pointed out

1

with success why the controller 363 cannot correspond to Applicant's claims. In the final rejection the Examiner withdrew this identification of controller 363. Instead the rejection as to claims 1 and 26 with respect to the controller states in its entirety that "Boloker teaches...a controller operative to select one or more of a plurality of multi-modal session proxy servers (paragraphs [0095], [0101-0102])" (page 4 of final action). However, this citation does not identify any corresponding structure alleged to correspond to the claimed controller. At best, the citation refers to and uses the word "collections of controllers" (middle of paragraph 95) which in fact are defined in paragraph 101 as "controller such as channel specific browsers (e.g., WAP browser..., web/HTML browser, C-HTML browser...)". As such, the cited portion namely FIG. 1 and paragraphs 95 and 101-102 only reference to a controller as being a web browser. Such an interpretation of a controller being a web browser is inconsistent both with respect to claim 1 and claim 2. Claim 2 which depends on claim 2 states:

> at least one browser having a per session multi-modal proxy evaluator and a browser proxy identifier, wherein the browser is operably coupled to the controller...

An item cannot be coupled to itself. Accordingly, the Examiner has made clear error in the claim interpretation that the claimed controller in claim 1 is a web browser since a web browser cannot be coupled to itself. The rejection must be withdrawn.

Moreover, the claimed controller of claim 1 is "operative to select one or more of a plurality of multi-modal session proxy servers" and also as required in claim 1 the plurality of multi-modal session proxy servers each have a proxy address and the controller determines, on a per session basis, which of the plurality of multi-modal proxy identifiers represents a proxy address of a selected multi-modal session proxy server with a plurality of proxy servers. Nowhere in the cited paragraphs (95, 101, 102) do the "controllers" (which are actually browsers in the Boloker reference) select one or more of a plurality of multi-modal session proxy servers based on multi-

modal proxy identifiers as required by the claim. Under 35 U.S.C. §102, the reference must teach each and every limitation in the claim. Applicant is unable to find any mention of any of the operations of claim 1 cited in the paragraphs.

In addition, the office action cites paragraphs 132, 145 and 232-235 as allegedly teaching that the controller of FIG. 1which is a browser, determines which of a plurality of multi-modal proxy identifiers represent the proxy address of a selected multi-modal session proxy server. Applicant respectfully submits that the cited paragraphs do not describe that the browser or controller of FIG. 1 does any of the operations set forth in the paragraph. To the contrary, paragraph 132 refers to the "application" and not to the controller. In addition, no "proxy servers" are mentioned and the rejection is silent as to which information in Boloker corresponds to the multi-modal session proxy servers as claimed. For example, paragraph 232 refers to instead a multi-modal shell that supports an application yet the office action cites to paragraph 132 which refers to an application. Applicant is unable to identify which structure in the cited reference corresponds to the claimed controller and claimed plurality of multi-modal session proxy servers. Applicant respectfully submits that citing to paragraphs that describe multiple and differing structures is not a proper rejection that puts the Applicant on proper notice of the basis of the rejection. In addition, Applicant previously pointed out, successfully, that the portions of paragraph 235 referring to the multi-modal shell controller cannot be the claimed controller and the Examiner withdrew this position in the previous action.

Since the reference does not teach what is alleged, and since the claims have been improperly construed (see for example, claims 1 and 2 and the terms browser and controller as noted above), Applicant respectfully submits that the Examiner has committed clear error and the rejection must be withdrawn.

3

Withdrawal of the rejection of the claims is respectfully requested due to clear errors by the Examiner, and a Notice of Allowance is respectfully requested.

Respectfully submitted,

Dated: May 19, 2009

By: /Christopher J. Reckamp/
Christopher J. Reckamp
Reg. No. 34,414

Vedder Price P.C.
222 North LaSalle
Chicago, Illinois 60601-1003
312/609-7500
312/609-5005 Facsimile

4